

## **REMARKS**

Applicant has carefully reviewed the Office Action mailed on June 6, 2008., wherein claims 1-4, 7-10, 13-15, 17-20, 22, 23 and 25 remain pending, claims 5, 6, 11, 12, 16, 21, 24 and 26 having been withdrawn from consideration. With this amendment, claims 1 and 17 are amended. No new matter is added. Applicant respectfully traverses (and does not concede) all objections, rejections, adverse statements, and adverse assertions made by the Examiner.

### **Information Disclosure Statement**

At page 2 of the Office Action, the Examiner stated that the Information Disclosure Statement filed July 12, 2004 fails to comply with 37 C.F.R. § 1.98(as)(2). Applicant asserts that a copy of all non-U.S. patent/publication art was provided to and received by the USPTO as evidenced by the OIPE date-stamped postcard receipt, and that the IDS was in compliance with 37 C.F.R. § 1.98(a)(2) at the time of submission. A copy of the OIPE date-stamped postcard receipt, along with pages 8 and 9 of Form PTO dated July 9, 2004, is appended to this paper. Further, a copy of each of the cited foreign and technical art not considered by the Examiner has been provided in electronic form with this response with the exception of references IL and IM, which were cited U.S. applications that had not yet published at the time of submission of the IDS. Although both applications have published as 2004/0230178 and 2004/0243156, respectively, since the IDS was submitted, Applicant asserts that the citations were in compliance at the time of submission, and further that it is no longer a requirement to submit copies of U.S. patent applications. Therefore, Applicant requests that the Examiner consider the foreign, non-patent references and applications cited on pages 8 and 9 of Form PTO-1449 dated July 9, 2004 and return an initialed Form PTO-1449 with the next PTO communication.

### **Claim Rejections Under 35 U.S.C. §103**

Claims 1, 2, 4, 7-9, 13, 15, 17, 18 and 20 are rejected under 35 U.S.C. §103(a) as being unpatentable over Vigil et al. (JP 05293176) in view of Larmour (U.S. Pat. No. 2,237,152) or Most (U.S. Pat. No. 2,127,043). Regarding claims 1, 2, 4, 7-9, 13, and 15, claim 1 is amended to recite that the top cutting portion includes a top surface and that a portion of the top surface is submerged within the strip. Support for this amendment can be found, for example, in Figures 3 and 4. Submerging the cutting member (e.g., a top surface thereof) may be desirable for a

number of reasons. For example, submerging a top surface of the cutting member in the strip may improve the interlocking bond between the cutting member and the strip. See, for example, Specification at page 12, lines 10-23. Neither Vigil et al. nor Larmour teach or suggest this limitation. Consequently, Applicant respectfully submits that this amendment distinguishes claim 1 from the cited art. Because claims 2, 4, 7-9, 13, and 15 depend from claim 1, they are also patentable for the same reasons as claim 1 and because they add significant elements to distinguish them further from the art.

Regarding claims 17, 18 and 20, claim 17 is similarly amended to recite that the cutting blade includes a top surface and that a portion of the top surface is submerged within the joining member. For reasons similar to those set forth above in relation to claim 1, Applicant respectfully submits that this amendment distinguishes claim 17 from the cited art. Because claims 18 and 20 depend from claim 17, they are also patentable for the same reasons as claim 17 and because they add significant elements to distinguish them further from the art.

Claims 3 and 19 are rejected under 35 U.S.C. §103(a) as being unpatentable over Vigil et al. and Larmour or Most, and further in view of Lim et al. (U.S. Pat. No. 7,147,619). As set forth above, Applicant respectfully submits that claims 1 and 17 are patentable over Vigil et al. and Larmour or Most. Lim et al. fail to overcome the shortcomings of the cited art. Consequently, Applicant respectfully submits that claims 1 and 17 are patentable over Vigil et al., Larmour or Most, and Lim et al., to the extent that such a combination is even possible. Because claims 3 and 19 depend from claims 1 and 17, respectively, they are also patentable for the same reasons as claims 1 and 17 and because they add significant elements to distinguish them further from the art.

Claims 10, 22 and 23 are rejected under 35 U.S.C. §103(a) as being unpatentable over Vigil and Larmour or Most, and further in view of Forman et al. (U.S. Pat. No. 5,514,092). As set forth above, Applicant respectfully submits that claims 1 and 17 are patentable over Vigil et al. and Larmour or Most. Forman et al. fail to overcome the shortcomings of the cited art. Consequently, Applicant respectfully submits that claims 1 and 17 are patentable over Vigil et al., Larmour or Most, and Forman et al., to the extent that such a combination is even possible. Because claims 10 and 22-23 depend from claims 1 and 17, respectively, they are also patentable for the same reasons as claims 1 and 17 and because they add significant elements to distinguish them further from the art.

Claims 14 and 25 are rejected under 35 U.S.C. §103(a) as being unpatentable over Vigil and Larmour or Most, and further in view of Radisch (U.S. Pat. No. 6,632,231). As set forth above, Applicant respectfully submits that claims 1 and 17 are patentable over Vigil et al. and Larmour or Most. Radisch fails to overcome the shortcomings of the cited art. Consequently, Applicant respectfully submits that claims 1 and 17 are patentable over Vigil et al., Larmour or Most, and Radisch, to the extent that such a combination is even possible. Because claims 14 and 25 depend from claims 1 and 17, respectively, they are also patentable for the same reasons as claims 1 and 17 and because they add significant elements to distinguish them further from the art.

**Conclusion**

Reexamination and reconsideration are respectfully requested. It is respectfully submitted that all pending claims are now in condition for allowance. Issuance of a Notice of Allowance in due course is requested. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

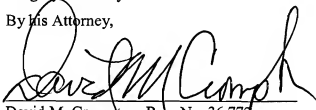
Respectfully submitted,

Gregory S. Kelley

By his Attorney,

Date: \_\_\_\_\_

9/4/08



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Attachment: Copy of OIPE Date-Stamped Postcard Receipt and  
pages 8 and 9 of IDS filed July 9, 2004

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This will hereby acknowledge receipt of the following  
documents by the Assist. Comm. of Patents and Trademarks:

Transmittal Letter, Information Disclosure Statement, Form PTO-1449 and 23 cited non-  
U.S. patent/publication references.

with respect to the following:

Applicant: Gregory S. Kelley

Serial No.: 10/821,237

Filing Date: April 8, 2004

For: CUTTING BALLOON CATHETER AND  
METHOD FOR BLADE MOUNTING

Docket No.: 1001.1753101

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Examiner Initial	Document No.	Date	Name	Filing Date If Appropriate
HG	6,409,863	06/25/2002	Williams et al.	
HH	6,425,882	07/30/2002	Vigil	
HI	6,471,673	10/29/2002	Kasterhofer	
HJ	6,471,713	11/29/2002	Vargos et al.	
HK	6,533,754	03/18/2003	Hisamatsu et al.	
HL	6,544,276	04/08/2003	Azizi	
HM	6,562,062	05/13/2003	Jenusaitis et al.	
HN	6,602,265	08/05/2003	Dubrul et al.	
HO	6,632,231	10/14/2003	Radisch, Jr.	

**FOREIGN PATENT DOCUMENTS**

	Document No.	Date	Country	Translation Yes No
HP	DE 34 00 416 A1	07/18/1985	Germany	Yes
HQ	DE 34 02 573 A1	08/22/1985	Germany	Yes
HR	DE 35 19 626 A1	12/04/1986	Germany	Yes
HS	EP 0 291 170 A1	11/17/1988	Europe	
HT	EP 0 414 350 A1	02/27/1991	Europe	
HU	EP 0 784 966 A1	07/23/1997	Europe	
HV	GB 1 547 328	06/13/1979	United Kingdom	
HW	WO 90/07909 A1	07/26/1990	WIPO	
HX	WO 91/17714 A1	11/28/1991	WIPO	
HY				

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OTHER ART (Including Author, Title, Date, Pertinent Pages, Etc.)

HZ	Lary, Banning G., et al., "A Method for Creating a Coronary-Myocardial Artery," <u>Surgery</u> , June 1966, Vol. 59, No. 6, pp. 1061-1064.
IA	Lary, Banning G., "An Epicardial Purse String Suture for Closing Coronary Arteriotomy," <u>The American Surgeon</u> , March 1967, Vol. 33, No. 3, pp. 213-214.
IB	Lary, Banning G., "Coronary Artery Incision and Dilation," <u>Archives of Surgery</u> , December 1980, Vol. 115, pp. 1478-1480.
IC	Lary, Banning G., "Coronary Artery Resection and Replacement by a Blood Conduit," <u>Surgery</u> , April 1969, Vol. 65, No. 4, pp. 584-589.
ID	Lary, Banning G., "Effect of Endocardial Incisions on Myocardial Blood Flow," <u>Archives of Surgery</u> , September 1963, Vol. 87, pp. 424-427.
IE	Lary, B.G., "Experimental Maintenance of Life by Intravenous Oxygen, Preliminary Report," <u>Clinical Congress of the American College of Surgeons</u> , San Francisco, November 5-9, 1951, pp. 30-35.
IF	Lary, Banning G., et al., "Experimental Vein Angioplasty of the Circumflex Coronary Artery," <u>Journal of Surgical Research</u> , September 1974, Vol. 17, No. 3, pp. 210-214.
IG	Lary, Banning G., "Method for Increasing the Diameter of Long Segments of the Coronary Artery," <u>The American Surgeon</u> , January 1966, Vol. 32, No. 1, pp. 33-35.
IH	Lary, Banning G., et al., "Myocardial Revascularization Experiments Using the Epicardium," <u>Archives of Surgery</u> , January 1969, Vol. 98, pp. 69-72.
II	Lary, Banning G., "Onlay Vein Graft for the Correction of Coronary Artery Obstruction," <u>Surgery</u> , April 1966, Vol. 59, No. 4, pp. 547-551.
IJ	Lary, Banning G., "Surgery for Coronary Artery Disease," <u>Nursing Clinics of North America</u> , September 1967, Vol. 2, No. 3, pp. 537-542.
IK	Lary, Banning G., et al., "The 'Coronary Myocardial Artery' for Coronary Artery Disease," <u>Diseases of the Chest</u> , April 1996, Vol. 49, No. 4, pp. 412-419.
IL	U.S. Application Serial No. 10/436,216 to Show-Mean Wu, filed May 12, 2003.
IM	U.S. Application Serial No. 10/447,766 to Show-Mean Steve Wu et al., filed May 29, 2003

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